

May 11, 2021

**VIA ELECTRONIC FILING**

Regional Director  
National Labor Relations Board, Region 19  
Henry M. Jackson Federal Building  
915 Second Avenue, Room 2948  
Seattle, WA 98174-1078

**Re: SSA Terminals, LLC v. International Longshore & Warehouse Union  
("ILWU") / International Longshore & Warehouse Union, Local 19  
No. 19-CD-269624  
SSA Terminals, LLC's, Opposition to ILWU's Motion for Continuance of  
Hearing**

Dear Regional Director Hooks:

As you are aware, Gordon Rees Scully Mansukhani, LLP, represents SSA Terminals, LLC ("SSAT"), the Charging Party, in the above-captioned case. On May 5, 2021, counsel for the International Longshore and Warehouse Union ("ILWU"), the Charged Party, filed a motion seeking a substantial continuance of the trial date in this matter as well as the companion matter, NLRB Case No. 19-CD-269637.<sup>1</sup> SSAT hereby opposes this unjustifiable request on the following grounds:

**I. INTRODUCTION**

On December 3, 2020, SSAT amended its priority charge in this matter to further emphasize that the ILWU's ongoing actions at Terminal 5 in Seattle, Washington ("T-5"), are in direct contravention of the NLRB's previous assignment of the work at-issue to the International Association of Machinists and Aerospace Workers ("IAM"). Approximately four months later, the NLRB issued an order on April 9, 2021 setting trial for July 13, 2021. In response, SSAT began its preparations for trial as well as made arrangements for same. But, now, approximately two months before trial, the ILWU seeks to delay this matter at least three more months.

**II. NO PROCEDURAL GROUNDS EXIST TO DELAY TRIAL**

Overall, SSAT is ready to proceed on this matter, and any further delay will unduly prejudice SSAT as well as the workforce that is ultimately assigned the T-5 work currently in

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<sup>1</sup> The two cases referenced herein were consolidated by Order dated April 9, 2021.

dispute. Indeed, since the NLRB set the matter for trial, SSAT has been more than accommodating to both unions as to scheduling as long as such requests did not result in any substantial delay of adjudication of the ultimate issue. And, while the ILWU claims that the start date “already gives ILWU little time to prepare its defenses and secure witnesses,” the ILWU (1) has the same amount of time as all other parties in this matter to prepare for trial; (2) inexplicably waited approximately thirty (30) days to make its continuance request, which could have been used to prepare for trial; and (3) still has about sixty (60) days until trial commences. Thus, no procedural justification exists to further delay trial set for July 13, 2021.

### **III. ANY FURTHER DELAY WILL SEVERELY PREJUDICE SSAT AND RESULT IN FURTHER LABOR UNREST**

The record in this matter already reflects serious burdens being placed on SSAT and its facility at T-5 due to labor unrest and delay stemming from the ongoing work jurisdictional dispute. The work at-issue was originally assigned to the ILWU in late 2018. Thereafter, a jurisdictional dispute as to such work between the ILWU and IAM arose in 2019. As a result, the NLRB held a hearing pursuant to 29 U.S.C. § 160k (“10k Hearing”) on April 24th, 25th, and June 6th, of 2019.

Following briefing by all participating parties, the NLRB issued a Decision and Determination on July 16, 2020 (“10k Award”), which assigned the work in-question to the IAM and not the ILWU. SSAT then commenced transition of this work from the ILWU to the IAM pursuant to same, which required several months to complete. But, by September 14, 2020, the ILWU (the union the NLRB did not award the T-5 work to) was already in the process of pursuing a Grievance under the Pacific Coast Longshore Contract Document (“PCLCD”) claiming that the July 16, 2020 10k Decision and Determination somehow evidenced SSAT’s violation of the PCLCD, which needed to be “remedied”. Based on this Grievance, Coast Arbitrator John Kagel conducted a hearing on October 13-14, 2020 and, on November 30, 2020, issued an Opinion and Decision finding a violation of the PCLCD. One day later, on December 1, 2020, the ILWU began to file Lost Work Opportunity (LWO) claims against SSAT.

Additionally, through much of 2020 as well as 2021, the T-5 facility’s operations were significantly impacted by both the COVID-19 pandemic as well as a general and ongoing rehabilitation of the piers and terminal, itself. However, at this time, T-5 is set to open for full operation on January 1, 2022 with no restrictions. Therefore, continuing the trial in this matter several months would not only impact T-5’s ability to open as scheduled but would also hamper SSAT’s ability to obtain as well as retain customers. Notably, if the work is ultimately reassigned to the ILWU after having been performed by the IAM for some time now (per the 10k Award), SSAT would need additional time to secure and properly train ILWU mechanics. Although it is difficult to estimate the amount of time this process would take, SSAT will undoubtedly need a somewhat extended period to train and/or retrain ILWU members on the equipment at T-5. Thus, if trial is continued to and only held in this matter in October 2021, then the current January 1, 2022 opening date may be in jeopardy (given the lead time needed if ILWU is awarded the work). Overall, jurisdictional issues regarding the maintenance and repair work at T-5 have long plagued this facility, meaning the sooner a final decision is made as to the ongoing dispute, the sooner SSAT can ensure it has the appropriate workers in place and fully trained to operate its facility at full capacity starting January 1, 2022.

Lastly, T-5's history of labor issues, when coupled with the threat of ongoing labor unrest and/or possibility of further labor uncertainty at T-5 related to the instant jurisdictional dispute, has resulted in lingering doubts amongst SSAT's customers and potential customers, many of whom are Pacific Maritime Members ("PMA") that are aware of the ILWU grievances presented at the Labor Relations Committee Meetings. Therefore, even the appearance of unrest or uncertainty at T-5, along with the very real possibility of customers becoming hesitant to use the terminal or enter into any long-term contracts with SSAT in relation to T-5 because of the pending work dispute, is a threat to SSAT's business and financial wellbeing. Overall, labor unrest traditionally discourages customers from using facilities at which they exist and drives them away in search of more stable shipping and transport services. As such, waiting an additional three months for a resolution of the work dispute would likely have an unfair and deleterious impact on SSAT and its business at T-5, which, in turn, would also inevitably adversely impact the ILWU or IAM members who would have worked there.

#### **IV. CONCLUSION**

For these reasons, SSAT opposes the ILWU's motion for a continuance of the parties' July 13, 2021 trial date.

The NLRB's consideration and courtesy are most appreciated.

Very truly yours,

GORDON REES SCULLY MANSUKHANI LLP



Jim McMullen, Esq.

cc: Eleanor Morton, Esq. (via e-mail: [emorton@leonardcarder.com](mailto:emorton@leonardcarder.com))  
David Rosenfeld, Esq. (via e-mail: [drosenfeld@unioncounsel.net](mailto:drosenfeld@unioncounsel.net))  
Jonathan Fritts, Esq. (via e-mail: [jonathan.fritts@morganlewis.com](mailto:jonathan.fritts@morganlewis.com))